

BILL LOCKYER, Attorney General  
of the State of California  
GAIL M. HEPPELL,  
Supervising Deputy Attorney General  
MARA FAUST, State Bar No. 111729  
Deputy Attorney General  
California Department of Justice  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 94244-2550  
Telephone: (916) 324-5358  
Facsimile: (916) 327-2247

Attorneys for Complainant

BEFORE THE  
BOARD OF PODIATRIC MEDICINE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. 1B-2002-136704

THOMAS ANGELO DEL ZOTTO  
1600 Creekside Drive, Suite 3100  
Folsom, CA 95630

ACCUSATION

License No. E-3662

Respondent.

Complainant alleges:

PARTIES

1. James H. Rathlesberger (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine.

2. On or about July 1, 1990, the Board issued License Number E-3662 to Thomas Angelo Del Zotto (Respondent). The license was in effect at all times relevant to the charges brought herein, and will expire on March 31, 2006, unless renewed.

JURISDICTION

3. This Accusation is brought before the Board of Podiatric Medicine, the Medical Board of California, Department of Consumer Affairs, (hereinafter "the Board"), under the authority of the following laws. All section references are to the Business and Professions

1 Code unless otherwise indicated.

2 4. Section 2234 of the Code states:

3 "The Division of Medical Quality shall take action against any licensee who is  
4 charged with unprofessional conduct. In addition to other provisions of this article,  
5 unprofessional conduct includes, but is not limited to, the following:

6 "(a) Violating or attempting to violate, directly or indirectly, assisting in or  
7 abetting the violation of, or conspiring to violate any provision of this chapter [Chapter 5,  
8 the Medical Practice Act].

9 "(b) Gross negligence.

10 "..."

11 "(e) The commission of any act involving dishonesty or corruption which is  
12 substantially related to the qualifications, functions, or duties of a physician and surgeon."

13 5. Section 125.3 of the Code provides, in pertinent part, that the Division  
14 may request the administrative law judge to direct a licensee found to have committed a  
15 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the  
16 investigation and enforcement of the case.

17 6. Section 2261 of the Code states:

18 "Knowingly making or signing any certificate or other document directly or  
19 indirectly related to the practice of medicine or podiatry which falsely represents the  
20 existence or nonexistence of a state of facts, constitutes unprofessional conduct."

21 7. Section 2262 of the Code states:

22 "Altering or modifying the medical record of any person, with fraudulent intent, or  
23 creating any false medical record, with fraudulent intent, constitutes unprofessional  
24 conduct.

25 "In addition to any other disciplinary action, the Division of Medical Quality or  
26 the California Board of Podiatric Medicine may impose a civil penalty of five hundred  
27 dollars (\$500) for a violation of this section."

28 8. Section 2266 of the Code states: "The failure of a physician and surgeon to

1 maintain adequate and accurate records relating to the provision of services to their patients  
2 constitutes unprofessional conduct."

3 FIRST CAUSE FOR DISCIPLINE

4 [Bus. & Prof. Code § 2234(b)]  
(Gross Negligence)

5 9. Respondent is subject to disciplinary action under section 2234 of the  
6 Business and Professions Code in his treatment of patient B.W. The circumstances are as  
7 follows:

8 10. On or about June 26, 2000, respondent undertook the care and treatment of  
9 Patient B.W., a fifty-seven year old female, with right foot pain. Respondent diagnosed B.W.  
10 with the condition of probable Morton's neuroma of the right second interspace, and she was  
11 given three corticosteroid injections in the right foot. On October 23, 2000, respondent excised  
12 B.W.'s neuroma of the second intermetatarsal space of the right foot.

13 12. On May 2, 2001, B.W. returned to respondent complaining of right foot  
14 pain. Respondent diagnosed a painful bunion with an overriding second toe. On June 8, 2001,  
15 respondent performed an Austin bunionectomy with screw fixation, an arthroplasty of the second  
16 toe with an MTP joint release fixated with a K-wire. On July 9, 2001, the wire from B.W.'s  
17 second toe was removed, with the distal portion of the wire fractured and a fragment of the pin  
18 was retained within the head of the second metatarsal. In October, 2001, patient B.W. developed  
19 pain around the screw in the first metatarsal and the screw was removed on November 12, 2001.

20 13. On November 26, 2001, respondent's associate, Dr. Larson, evaluated  
21 patient B.W. and noted that the patient had a recurrence of the hallux valgus deformity with an  
22 increase of the intermetatarsal angle from 12 degrees to 17-18 degrees and that the great toe was  
23 "encroaching against the second toe." Dr Larson referred the patient back to respondent. Patient  
24 B.W. then sought a second opinion from Brian McDowell, D.P.M., who performed a Keller  
25 bunionectomy of the right foot and ostectomy of the second metatarsal head with K-wire fixation  
26 to lessen patient B.W.'s right foot pain.

27 14. Respondent did not adequately document physical exam findings on the  
28 majority of patient B.W.'s visits and such failure constitutes an extreme departure from the

1 standard of care in violation of section 2234 of the Business and Professions Code.

2 SECOND CAUSE FOR DISCIPLINE

3 [Bus. & Prof. Code § 2234(b)]

4 (Gross Negligence)

5 15. Complainant re-alleges paragraphs 11 through 13 above and incorporates  
6 them herein by reference as if fully set forth at this point. Respondent is subject to disciplinary  
7 action under section 2234(b) of the Business and Professions Code in his treatment of patient  
8 B.W. The circumstances are as follows:

9 16. On or about May 25, 2004, respondent was interviewed by Senior  
10 Investigator Anna Vanderveen and Board consultant Dr. Bartis, D.P.M., where it became obvious  
11 that respondent had supplied mislabeled x-rays that did not belong to patient B.W. and that some  
12 x-rays were not clearly and legibly labeled. Respondent's inability to locate the correct x-rays  
13 for B.W., his mislabeling of some other patient's x-rays, and his possession of x-rays that were  
14 not clearly and legibly labeled, each separately and in combination constitute an extreme  
15 departure from the standard of care and constitute violation(s) of 2234(b) of the Code.

16 THIRD CAUSE FOR DISCIPLINE

17 [Bus. & Prof. Code § 2234(b)]

18 (Gross Negligence)

19 17. Complainant re-alleges paragraphs 11 through 13, and 16 above and  
20 incorporates them herein by reference as if fully set forth at this point. Respondent is subject to  
21 disciplinary action under section 2234(b) of the Business and Professions Code in his treatment  
22 of patient B.W. The circumstances are as follows:

23 18. The medical records of B.W.'s care by respondent were supplied to the  
24 Board on August 7, 2002 by B.W. Thereafter, on October 11, 2002, respondent provided a copy  
25 of B.W.'s records. There are numerous discrepancies between the copy of B.W.'s records  
26 supplied by the patient and respondent's copies. The medical records of B.W. that were provided  
27 by respondent, have had both their form and content changed, with both additions and omissions  
28 having been made to the record.

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(Bus. & Prof. Code §§ 2234(e), 2261, 2262, and 2266)

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